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Convention on the Rights of Persons with Disabilities

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Consideration of reports submitted by States parties under article 35 of the Convention

List of issues in relation to the initial report of Chile

Addendum

Replies of Chile to the list of issues*,**

[Date received: 15 December 2015]

Reply to the issues raised in paragraph 1 of the list of issues (CRPD/C/CHL/Q/1)

A. Purpose and general obligations (arts. 1-4)

Article 1 — Purpose

1. Chile has adopted legislation that incorporates language respectful of the dignity of persons with disabilities. Laws meeting this requirement include Act No. 19,882 of 23 June 2003,[1] the regulations implementing Act No. 19,886 (Ministry of Finance Supreme Decree No. 250 of 24 September 2004),[2] Act No. 20,255 of 17 March 2008,[3] Act No. 20,584 of 24 April 2012,[4] Act No. 20,609 of 24 July 2012,[5] Act No. 20,844 of 10 June 2015[6] and the Labour Code.[7]

* The present document is being issued without formal editing.
** Annexes can be consulted in the files of the Secretariat.
[1] Regulating the new personnel policy applicable to the civil servants indicated therein. Article 2, paragraph 1, stipulates that the Civil Service is required to include variables designed to prevent all forms of discrimination in the draft personnel policy.
[2] Based on administrative supply and service provision contracts.
[3] Providing for pension reforms.
[4] Regulating the rights and responsibilities of persons involved in the health care of persons with disabilities.
[5] Establishing anti-discrimination measures.
[6] Establishing the rights and responsibilities of persons who organize and/or attend professional football matches.
[7] Establishing that the internal regulations of every workplace must include special provisions

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2. The regulations implementing the Equal Opportunities and Social Inclusion of Persons with Disabilities Act are also in line with the language used in the Convention on the Rights of Persons with Disabilities (hereinafter the Convention).

3. However, a report issued by the Library of the National Congress in 2014 revealed that a number of legislative bodies were using inappropriate terminology (see annex I). This report will serve as a guide for the process of updating the regulations to conform to the standards established in the Convention.

4. To bring disability certification criteria into line with the human rights model, the Government promulgated Ministry of Health Supreme Decree No. 47 approving the disability assessment and certification regulations (16 October 2013).[8]

5. The system is based on a complex theoretical model in which disability is understood as a multidimensional and multidirectional interaction between health conditions and contextual personal and environmental factors, in line with international standards.

Article 4 — General obligations

Reply to the issues raised in paragraph 2 of the list of issues

6. Progress made towards the implementation of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act has included the creation of a new institutional structure, composed of the National Service for Persons with Disabilities (SENADIS), the Ministerial Committee for Disability (now replaced by the Interministerial Committee for Social Development), which enhances coordination between sectors, and the Consultative Council on Disability, which provides a medium for civil society consultation in the formulation of public sector plans, programmes and policies.

7. Addressing the entrenched structural discrimination faced by persons with disabilities is a priority objective of the 2014-2018 Government Programme.[9] The Presidential Advisory Commission for the Social Inclusion of Persons with Disabilities (hereinafter the Advisory Commission)[10] was created to address this discrimination and was asked to draft the National Plan for the Social Inclusion of Persons with Disabilities for 2016-2026 to address disability, mental health and mental health care, legal capacity, support services and safeguards.

8. The second national disability survey (known as ENDISC II), for which the World Health Organization (WHO)-World Bank recommendations for standardizing disability measurement methodologies were adopted for the first time, will provide up-to-date figures on persons with disabilities and their specific situations.

9. The bill on the establishment of a new institutional structure to address disability issues will be submitted to the parliament in the near future. The new structure will be known as the Office of the Under-Secretary for Disability and will have new and enhanced powers.

10. In fulfilment of the obligation established in article 4 of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act, the Government has expanded the range of social programmes and benefits available for persons with disabilities, in

concerning the accommodation and support services necessary to enable workers with disabilities to perform their work properly.

[8] See http://www.leychile.cl/Navegar?idNorma=1055217.

[9] See http://michellebachelet.cl/programa/.

[10] Established by Ministry of Social Development Supreme Decree No. 86 of 24 January 2015.

order to provide a broad spectrum of services designed to support and protect their rights (annex II).

11. Six of the nine sets of regulations envisaged in the Equal Opportunities and Social Inclusion of Persons with Disabilities Act to regulate technical aspects of disability have already been adopted and are fully operational. These are the regulations on: (a) disability classification and certification; [11] (b) audiovisual communication devices that give people with hearing impairments access to free-to-air television channels and cable television services; [12] (c) specifications for signage, use of space and access to seating on public transport; [13] (d) exemption from custom duties and other forms of tax relief on the import of cars, technical aids, equipment, medicines and other items used for therapy or rehabilitation, and on workplace equipment, machinery and tools designed or adapted for use by persons with disabilities, among others; [14] (e) operation of the National Disability Register; [15] and (f) operation of the Consultative Council on Disability. [16] Three sets of regulations have still to be drafted. [17]

Reply to the issues raised in paragraph 3 of the list of issues

12. In 2010, SENADIS was awarded a European Union-funded project to facilitate the participation of persons with disabilities and the exercise of their rights, which helped to reduce social barriers. A national policy for the social inclusion of persons with disabilities was drafted as part of this project but was not ultimately adopted as a national plan.

13. In view of this situation, President Bachelet made a specific commitment to adopt a national plan during the current administration. The resultant plan (known as PLANDISC) is now at the implementation stage. In the first phase of its development (25 November 2014 to 30 April 2015), the Advisory Commission collected input for the subsequent analysis phase through civic dialogue [18] and public hearings. [19]

14. Responsibility for coordinating and raising awareness of PLANDISC across agencies will rest with the future Office of the Under-Secretary for Disability, which will form part of the Ministry of Social Development. The bill establishing the Office

[11] See footnote 7 above.

[12] Ministry of Planning Supreme Decree No. 32 (4 February 2012). See http://www.leychile.cl/Navegar?idNorma=1037014.

[13] Ministry of Planning Supreme Decree No. 142 (9 July 2011). See http://www.leychile.cl/Navegar?idNorma=1027577.

[14] Ministry of Finance Supreme Decree No. 1253 (21 October 2011). See http://www.leychile.cl/Navegar?idNorma=1031488.

[15] Ministry of Justice Exempt Supreme Decree No. 945 (31 March 2012). See http://www.leychile.cl/Navegar?idNorma=1038444.

[16] Ministry of Planning Supreme Decree No. 141 (12 May 2011). See http://www.leychile.cl/Navegar?idNorma=1025300.

[17] Ministry of Housing and Town Planning Supreme Decree No. 50 (2015), incorporating the principles established in the Equal Opportunities and Social Inclusion of Persons with Disabilities Act into the General Ordinance on Town Planning and Construction, was submitted for public consultation in 2014 and is currently in the process of presidential approval and constitutional review prior to promulgation and publication. The Ministries of Health and Social Development are drafting regulations designed to protect persons with visual disabilities in the use of pharmaceutical products, medical foods and cosmetics and regulations for the use of preferential selection procedures for persons with disabilities participating in public-sector recruitment processes.

[18] Fifteen regional meetings were held and were attended by a total of 1,554 people, including representatives of organizations composed of and/or working for persons with disabilities, public and private sector institutions, persons with disabilities and members of their families.

[19] A total of 83 public hearings were held, 53 for representatives of civil society and 30 for public service providers.

is expected to be submitted to the parliament in the first half of 2016. The Office's creation will strengthen the capacity of SENADIS, adding to its current duties, which it will retain, but also giving it responsibility for the ongoing supervision and oversight of stakeholder bodies.

Reply to the issues raised in paragraph 4 of the list of issues

15. The Equal Opportunities and Social Inclusion of Persons with Disabilities Act establishes that the principles of social participation and dialogue must be respected (art. 63) and provides for the creation of the SENADIS Consultative Council on Disability, composed of representatives of organizations of persons with disabilities.[20]

16. Act No. 20,500[21] establishes procedures for civil society participation in public sector decision-making and introduces a requirement for all agencies to develop participatory mechanisms. The mechanisms envisaged for this purpose include public consultations, civil society advisory councils, participatory auditing, public hearings and participatory budgeting.

17. These participatory mechanisms, including, in particular, the Consultative Council on Disability and the civil society advisory councils, are regulated in the SENADIS general regulations on citizen participation (SENADIS Exempt Resolution No. 5,665).[22]

18. The Advisory Commission mentioned above is composed mainly of representatives of organizations of and/or working for persons with disabilities and uses participatory mechanisms such as public hearings and regional civic meetings to canvass the opinions of persons with disabilities.

19. SENADIS has also taken specific action to provide for the training of regional leaders, opening 32 community and regional development schools.

Reply to the issues raised in paragraph 5 of the list of issues

20. The most recent data available on persons with disabilities are those that were collected in the first national disability survey, conducted in 2004 and referred to as ENDISC I.[23] The reply provided on these issues, which is expanded in annex III, also drew on the following sources: (a) the National Social and Economic Survey (Casen 2013) on disability;[24] and (b) World Bank indicators.

21. SENADIS is currently conducting the second national disability survey (ENDISC II) and the results will be available in the first half of 2016. Participatory mechanisms, including 17 civic dialogues in the country's 15 regions, were used to develop the ENDISC II questionnaire.

[20] The regulations governing the Council's operation were adopted by Ministry of Planning Supreme Decree No. 141.

[21] On associations and citizen participation in the management of public affairs (16 February 2011). See http://www.leychile.cl/Navegar?idNorma=1023143.

[22] Exempt Resolution No. 3,660 (16 August 2011). See file:///C:/Users/christian%20finsterbus/Downloads/Resoluci%C3%B3n%20exenta%20Consejos%20de%20la%20Sociedad%20Civil.pdf.

[23] See https://www.google.cl/webhp?sourceid=chrome-instant&ion=1&espv=2&ie=UTF-8#q=ine+discapacidad+endisc+1.

[24] In addition to the traditional analysis, which is based on the situation of persons with permanent, long-term conditions, the analysis takes in a sizeable group of persons whose ability to carry out day-to-day activities is limited by health conditions. See http://observatorio.ministeriodesarrollosocial.gob.cl/documentos/Casen2013_inclusion_social.pdf.

B. Specific rights

Article 5 — Equality and non-discrimination

Reply to the issues raised in paragraph 6 of the list of issues

22. The notion of reasonable (necessary) accommodation is established in article 8 of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act, in line with the Convention. This article provides that the notion of reasonable accommodation should be applied in all activities, policies, plans, procedures and/or actions of which persons with disabilities are the intended beneficiaries, in order to remove existing social barriers and achieve full social inclusion, taking into consideration the specific characteristics of the beneficiaries. The notion is also expressly incorporated in a number of the provisions of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act, in order to strengthen it in various ways, and in the regulations implementing the Act.

23. Reasonable accommodation is required of both private and public sector institutions and the State is under an obligation to ensure that the former comply with the requirement. Examples of reasonable accommodation include:

- **Education**: special funding to give students with disabilities and special educational needs [25] to access support from professionals specializing in educational resources and curriculum adjustments for preschool and primary education, pursuant to Act No. 20,370 [26] and Ministry of Education Exempt Decree No. 83 (2001);[27]
- **Health**: universal design in public sector hospital infrastructures; universal accessibility principles in the Ministry of Health's website;[28] universal design principles in the website of the Department of Disability and Rehabilitation, also part of the Ministry of Health;[29]
- **Labour market inclusion**: reasonable accommodation in the jobs of civil servants with disabilities (annex IV);
- **Accessibility**: the Ministry of Public Works will incorporate the principles set out in the Equal Opportunities and Social Inclusion of Persons with Disabilities Act and the Universal Accessibility Manual into its Road Manual;[30] all service departments under the Ministry's supervision have engaged in inclusive initiatives under the 2015-2025 National Plan, and the Architecture Directorate is incorporating universal design and accessibility variables in its methodological guide for the design of public infrastructures;
- **Housing**: the objectives of the Ministry of Housing and Town Planning's 2015-2018 Inclusion Agenda include improving the quality of housing, neighbourhoods and the city environment for vulnerable groups. Under the Inclusion Agenda, families including persons with disabilities who are registered in the National Disability Register qualify for additional points to gain access to subsidized housing. The Agenda also provides for the award of additional funds to make the adaptations to housing necessary to improve accessibility;

[25] Law-ranking Decree No. 2 on subsidies.
[26] Establishing the General Education Act of 12 September 2009. See http://www.leychile.cl/Navegar?idNorma=1006043
[27] See http://www.leychile.cl/Navegar?idNorma=182968.
[28] See www.minsal.cl.
[29] See http://rehabilitacion.minsal.cl.
[30] From 2016 onwards.

- **Access to justice**: the judiciary, the Public Prosecution Service and the Public Criminal Defender Service are applying the notion of reasonable accommodation in all their procedures. The Carabineros (police) have also incorporated disability considerations into their instruction manuals and are planning to cover disability in their human rights training plan. The Investigative Police Force has conducted training for its officers and plans to draft internal guidelines on the rights of persons with disabilities involved in criminal proceedings.

Reply to the issues raised in paragraph 7 of the list of issues

24. Article 19.2 of the Constitution of Chile establishes that all persons are equal before the law. Article 5, paragraph 2, establishes that State institutions are required to observe, promote, respect and guarantee fundamental human rights, whether they are enshrined in the Constitution or in treaties ratified by Chile.[31] The right to equality before the law is guaranteed by the judicial protection mechanism (art. 20 of the Constitution).[32]

25. Act No. 20,609 (2012)[33] establishes a judicial mechanism for restoring the rule of law following acts of arbitrary discrimination (art. 1) and includes disability as a suspect classification for arbitrary discrimination.

26. In the labour market, workers are protected against discrimination by the labour protection procedure established in book V, paragraph VI, of the Labour Code.

27. Act No. 19,496, which establishes rules for the protection of consumer rights, enshrines consumers' fundamental right "not to be arbitrarily discriminated against by suppliers of goods and services" (art. 3 (c)) and establishes a special disciplinary procedure for suppliers who fail to respect this right.

28. The Equal Opportunities and Social Inclusion of Persons with Disabilities Act establishes a disciplinary procedure for addressing cases of discrimination that accords enhanced protection to two vulnerable groups — children and adolescents, and women (art. 9).

29. In education, the main measure taken to prevent and punish multiple, cross-sectoral discrimination is the school socialization policy. The aim of this policy is to foster inclusive, harmonious school relations within a framework of gender equity and with a focus on human rights. Complaints of discrimination may be submitted to the Office of the Superintendent for School Education and guidelines have been issued on how to move towards an inclusive school environment.[34]

30. The national policy on childhood and adolescence overseen by the National Council for Children enshrines the principle of equality and non-discrimination and identifies groups of children and adolescents whose rights require special consideration and safeguards.

31. In addition, the National Service for Minors (SENAME) incorporates an intercultural approach in all its activities, promoting respect for the indigenous identity and world view.

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[31] See http://www.leychile.cl/Navegar?idNorma=242302.

[32] The aim of this protection mechanisms is to "restore the rule of law" whenever a protected right is violated or compromised by a State agent or private individual.

[33] Adopted 24 July 2012. See http://www.leychile.cl/Navegar?idNorma=1042092.

[34] The Ministry of Education has issued the following documents for use in the school community: (i) Discrimination in the school context: guidelines for promoting an inclusive school environment; (ii) Sex education for children and young people with learning disabilities; and (iii) Guidelines for keeping pregnant schoolgirls and teenage mothers and fathers in the school system, based on an inclusive approach.

Article 6 — Women with disabilities

Reply to the issues raised in paragraph 8 of the list of issues

32. The 2011-2020 National Equal Opportunities Plan is no longer in effect. The current Government has developed a new gender agenda to promote the rights, equality and autonomy of women, which will be implemented by an updated institutional structure with broader executive powers.[35]

33. A number of programmes and measures are currently in place to enable women and girls with disabilities to participate on equal terms in employment, education, politics and other areas.

34. In employment, the most important programmes are the "Más Capaz" (More able) and the "Servicios Sociales" programmes. The aim of the nationwide "Más Capaz" programme is to facilitate labour market access and continuing employment for women, young people and persons with disabilities in socially vulnerable situations by providing technical training, cross-cutting skills development and job placement services to enhance their employability. Under the "Servicios Sociales" programme, private non-profit institutions may receive State funds to finance projects that benefit unemployed persons. Between 2012 and 2015, 66.9 per cent of the beneficiaries were women.

35. To promote equal political participation, Act No. 20.840 (2015)[36] replaced the binominal electoral system by an inclusive system of proportional representation. This reform will increase women's representation in Congress, as 40 per cent of all candidates for seats in the parliament or the Senate that are put forward by political parties must henceforth be women.

Reply to the issues raised in paragraph 9 of the list of issues

36. The Ministry of Women and Gender Equity, created in March 2015,[37] will be responsible for designing, coordinating and evaluating policies, plans and programmes for the promotion of gender equity and equal rights and the elimination of all forms of arbitrary discrimination against women. In performing these duties, the Ministry will need to bear in mind that women do not constitute a homogeneous group and that their individual situations reflect many diverse realities, including disability.[38]

37. Specific initiatives launched by the current National Service for Women (SERNAM) include:

- Support, protection and comprehensive redress programmes for women victims of violence: available to all women irrespective of their situation;[39]
- 2014-2018 National Plan of Action on Violence against Women: an analytical review has been carried out with a view to amending the current Domestic Violence Act and expanding its scope to all forms of violence, and indicators of domestic violence that include disability among their variables have been defined and approved for data-collection purposes;
- Healthy Sexuality and Reproductive Life Programme: workshops that address sexuality and reproduction from a gender and human rights perspective are

[35] See https://portal.sernam.cl/?m=programa&i=72.
[36] See http://www.leychile.cl/Navegar?idNorma=1077039.
[37] Act No. 20,820 (20 March 2015).
[38] Act No. 20,820, article 3 (b).
[39] Women's centres, shelters, support centres for victims of sexual violence, shelters for women victims of trafficking in human beings.

organized for young people between 15 and 19 years of age and for women from 20 years of age onwards in which persons with disabilities may take part. Workshops have also been organized for adolescents with learning difficulties. These pilot projects will be rolled out in full in 2016 and an implementation plan will be drawn up to reflect the needs of this group.

Article 7 — Children with disabilities

Reply to the issues raised in paragraph 10 of the list of issues

38. The National Service for Minors (SENAME) and its network of partner organizations can provide 1,790 places in residential homes and day-care programmes for children and adolescents with disabilities whose rights have been infringed. This total includes 270 places in residential homes for persons with mild disabilities, 958 places in residential homes for persons with severe disabilities, 105 places in residential homes with associated support programmes and 457 places in day-care programmes for persons with disabilities.

39. Children and adolescents with disabilities whose rights have been infringed and who, by order of a court, must be temporarily separated from their families or caregivers, are guaranteed care in residential centres and foster families.

40. In addition, in order to prevent institutionalization, SENAME and the National Council for Children are developing a plan to deinstitutionalize care for children under 4 years of age by expanding the foster care system managed by partner organizations and creating a similar programme, which is managed directly by SENAME. The technical guidelines for residential care facilities, which are currently under review, provide for action to strengthen the links between children and their families and thus to prevent or reduce cases of abandonment. Although there is a range of services designed specifically for children and adolescents with disabilities whose rights have been infringed, SENAME is looking to integrate these services within the general service range available.

41. With regard to the system of adolescent criminal responsibility, the special needs of adolescents with disabilities have been incorporated into domestic legislation governing the implementation of disciplinary and other measures administered by SENAME.

Reply to the issues raised in paragraph 11 of the list of issues

42. The bill on the system of guarantees for the rights of children submitted in September 2015 contains various provisions to guarantee the exercise of their rights.[40]

43. Article 8 of the bill recognizes the right to equality and non-discrimination and includes disability as a suspect classification for discrimination.

44. The bill imposes on State bodies the obligation to take concrete measures to identify groups of children and adolescents for whom specific or more extensive action might be required to reduce or eliminate causes of discrimination and help resolve any problems inherent in their physical and social environment.

45. The bill also recognizes children's and adolescents' right to health, establishing that disability may not be invoked as a ground for denying their rights as patients; prohibits practices that deprive them of their sexual and reproductive rights; safeguards their right to express and disseminate their views freely, and to seek, receive and impart information contained in any form of social communication media;

[40] Bulletin No. 10315-18. See https://www.camara.cl/pley/pley_detalle.aspx?prmID=10729.

imposes upon State agencies and broadcasting service providers an obligation to develop audiovisual communication mechanisms for children and adolescents with disabilities; and enshrines children's and adolescents' right to have their views heard and taken into account and the State's obligation to ensure that information imparted to them is delivered in a language and in a manner appropriate to their ability to understand.

46. Children's and adolescents' right to participate in matters affecting them and the State's obligation to provide for the establishment of participatory mechanisms specifically for children and adolescents are also recognized in the bill.

47. The judiciary has taken numerous measures to guarantee the right of children and adolescents, including those with disabilities, to be heard in any judicial proceedings affecting them, in accordance with the Convention on the Rights of the Child. These measures have included:

- The installation of Gesell domes in the country's family courts, and special chambers in its criminal trial courts in order to create an environment that encourages child and adolescent victims or witnesses of an offence to express themselves freely and to help prevent secondary victimization;
- The incorporation in the Judicial Academy's curriculum of courses designed to give judges and judicial officers the technical capacity necessary to guarantee the right to be heard and to protect the best interests of the child and other principles and rights recognized in international law.

Article 9 — Accessibility

Reply to the issues raised in paragraph 12 of the list of issues

48. In addition to the initiatives implemented by the Ministry of Housing and Town Planning detailed above and pending the revision of the General Ordinance on Town Planning and Construction, the following measures have been adopted:

- Public spaces and urban parks programmes: universal accessibility criteria are incorporated in these programmes and also, on a smaller scale, in neighbourhood redevelopment and community paving projects;
- Improvements to levels of accessibility in information, complaints and suggestions offices and housing and town planning offices; web accessibility criteria incorporated in the design of computer systems, and labour inclusion initiatives for public sector employees with disabilities;
- National training programme for public sector employees working for the public spaces improvement and parks and neighbourhood redevelopment programmes to facilitate early application of the new universal accessibility standards contained in Ministry of Housing and Town Planning Supreme Decree No. 50 (2015). The application of these standards will be subject to monitoring and evaluation;[41]
- Cross-sectoral Ministry of Housing and Town Planning and SENADIS project to implement the sections of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act dealing with access to the physical environment and access to information and communication in inclusive formats;
- Adoption of technical requirements for the construction of social housing financed by the Housing of Choice Solidarity Fund. The regulatory framework

[41] The training was conducted between December 2014 and July 2015 with support from SENADIS.

and technical building specifications establish universal accessibility requirements for all homes built under the programme as well as for business premises and/or multipurpose buildings, and establish special requirements, and additional funding, for homes intended for persons with disabilities whose mobility is limited.

Article 11 — Situations of risk and humanitarian emergencies

Reply to the issues raised in paragraph 13 of the list of issues

49. The National Disaster Risk Management Policy is managed by the National Emergency Office, which was established in 2014, and is designed to reduce the adverse effects of disasters. It offers a set of guidelines for achieving ongoing reductions in disaster risk and responding appropriately to emergency situations and serves as a guide for the various State institutions.

50. The policy provides for the protection of vulnerable groups, establishes "equity" as a guiding principle and accords particular attention to the "... situation of persons with special needs" in both the design and the implementation of measures.

51. In 2015, the National Emergency Office, working in conjunction with SENADIS, launched a plan for universally accessible disaster risk management that would facilitate access to information for persons with disabilities in emergency situations. In implementation of the plan, the manuals containing recommendations on how to prepare for various risks will be translated into sign language (subtitled and audio video formats).

52. The National Emergency Office also coordinates the National Platform for Disaster Risk Reduction. The aim of this multi-stakeholder disaster risk management mechanism is to ensure that disaster risk reduction goals are incorporated into development policies, plans and programmes on a lasting basis and in accordance with international frameworks. As an active member of the National Platform, SENADIS is working to ensure that disability is included as a variable in all preventive actions.

53. SENADIS has taken action to ensure: the establishment of formal systems for the collection of data in emergency situations; its own participation in emergency operations committees in each region in which emergencies are prone to occur; the incorporation of disability inclusion as a variable in preventive information delivery mechanisms, recommendations, diagnostic exercises and assessment activities to identify gaps in provision;[42] funding to train firefighters in rescue techniques for persons with disabilities in three regions (Valparaíso, Tarapacá and Puerto Montt); and the establishment of an emergencies and disasters budget line for project financing in 2015.

54. Lastly, drawing on experience gained in the most recent emergencies, SENADIS has established mechanisms for joint action and coordination with associations of and for persons with disabilities so as to guarantee its ability to respond to such emergencies and plan prevention and reconstruction activities.

[42] Including recommendations for tsunami preparedness and response; comprehensive school safety plan; guidelines for assessing simulation exercises in higher education in the tsunami risk area; guidelines for assessing simulation exercises in educational establishments in the tsunami risk area; general guidelines for assessing simulation exercises in the tsunami risk area; plan for closure of the programme of reconstruction following the earthquake and tsunami of 27 February 2010.

Reply to the issues raised in paragraph 14 of the list of issues

55. The Equal Opportunities and Social Inclusion of Persons with Disabilities Act imposes on free-to-air television channels and cable television providers the obligation to implement audiovisual communication mechanisms that enable persons with hearing impairments to access their programmes. Compliance with this obligation is subject to specific regulations (art. 25, para. 1). Article 2 of Ministry of Planning Supreme Decree No. 32 (2012) stipulates that, in situations of risk or national emergency, all ordinary or extraordinary information broadcast or transmitted by television or radio channels should include closed-captioning or sign language. Under this rule, channels are free to choose one or other of these mechanisms.

56. Furthermore, the Supreme Decree introduces an obligation to use sign language in news broadcasts transmitted during peak periods. For this purpose, it stipulates the use of a shift system to ensure that information about emergency situations and humanitarian risks reported during news broadcasts on television channels, or, at least, on the channel responsible for the current shift, is imparted in sign language. The National Television Council is responsible for monitoring compliance with this rule and, pursuant to the Decree, must be kept informed of the shift rotation.

57. Responding to demands from within the deaf community regarding the need for sign language interpretation for all information disseminated in the event of disasters and catastrophes, the National Television Council is promoting a public-private partnership agreement that will make it possible for all official communiqués about disasters and emergencies to be transmitted directly with sign language interpretation. For this purpose, it is organizing a round-table event in which the National Emergency Office, SENADIS, the National Television Association and the Chilean Deaf Association will participate.

58. In addition, a bill to make sign language interpretation obligatory for the National Emergency Office's information broadcasts and for news spots about situations of emergency and public disaster (Bulletin No. 8.353-19) is currently being drafted.

Article 12 — Equal recognition before the law

Reply to the issues raised in paragraph 15 of the list of issues

59. The guardianship and trusteeship system provided for under current legislation in Chile involves a voluntary process rather than a system of support and safeguards in accordance with article 12 of the Convention. A switch from the one system to the other is one of the most pressing demands of associations of and for persons with disabilities and is also a key concern of the State.

60. With this end in mind, the Ministry of Justice, the Ministry of Social Development and SENADIS intend to establish a technical committee, composed of members of organizations of and for persons with disabilities and academics, to draft a bill that complies with the standards set in the Convention.

Article 13 — Access to justice

Reply to the issues raised in paragraph 16 of the list of issues

61. As indicated in the initial report, there are no regulations withholding access to justice for persons with disabilities. However, the lack of necessary accommodation, shortcomings in the provision of certain services and attitudinal barriers on the part of

public officials involved in judicial proceedings mean that persons with disabilities do, in practice, experience difficulties in exercising this right.

62. The following steps have been taken to guarantee the right of access to justice:

- The Judicial Academy runs courses on the rights of persons with disabilities for public officials working in the judicial branch of government;
- In 2015, SENADIS established the Access to Justice Programme,[43] which provides training for public officials and trainee lawyers completing internships in legal assistance agencies and carries out awareness-raising and advocacy activities to increase knowledge of the Convention and the Equal Opportunities and Social Inclusion of Persons with Disabilities Act. In 2014, 28 seminars, training courses and round-table discussions were held in 10 regions and were attended by a total of 2,110 public officials and trainee lawyers working in legal assistance agencies. In the same period, 19 workshops, seminars and training events were held for the general public and were attended by 727 people. As of the end of September, 24 training activities had been organized in 2015 and had been attended by 499 public officials and trainee lawyers working in legal assistance agencies, and 395 persons had attended advocacy and awareness-raising events to promote knowledge of the rights organized by legal assistance agencies;
- Accessibility: the Administrative Department of the Judiciary is making improvements to its premises and has plans to introduce remote sign language interpretation and install hearing loops in its self-service terminals;
- Production of statistical data: the Administrative Department of the Judiciary is currently working to include disability as a variable in its statistical database. Legal assistance agencies already include disability as a variable in their databases.

Article 14 — Liberty and security of person

Reply to the issues raised in paragraph 17 of the list of issues

63. No action has as yet been taken to eliminate the clause mentioned in this paragraph, but the matter is due to be discussed by the technical committee set up to assess the reform of the system of legal capacity.

64. Although under Chilean law personal circumstances cannot be taken into account when a decision is made as to whether or not a criminal offence has been committed, criminal judges cannot avoid subjective considerations when reviewing the facts and attributing responsibility for them, as specific circumstances may influence the outcome of such reviews; some referred to as mitigating or aggravating circumstances, have the effect of modifying criminal responsibility, while others, as established in article 10 of the Criminal Code, exonerate a perpetrator from criminal responsibility.

65. Article 458 of the Criminal Code establishes that if, in the course of proceedings, information comes to light which suggests that the accused should not be held accountable, as being of unsound mind, the public prosecutor or due process judge, of his or her own motion or at the request of either party, must request a psychiatric report and judge the offence under investigation on the basis of this report. The judge must order a stay of proceedings until the requested report is received.

[43] This built on agreements reached with legal assistance agencies. Lawyers specializing in the rights of persons with disabilities provide comprehensive legal advice free of charge and on a preferential basis in cases of disability-based infringements of rights.

66. There is also a range of provisions providing safeguards for persons with disabilities during criminal proceedings (arts. 98, 291, 302.2, 311, 455 and 457 of the Code of Criminal Procedure). These include provisions establishing that restrictive measures may be used only where there is judicial evidence that an unlawful act constituting a criminal offence has been committed; [44] provisions recognizing the accused person's right to a defence; provisions that limit the duration of any restrictive measure to no longer than the length of the minimum sentence for the offence concerned; and provisions rendering the application of such measures subject to judicial oversight.

Reply to the issues raised in paragraph 18 of the list of issues

67. Article 8 of Act No. 20,584[45] (2012) establishes patients' right to information, providing that all persons have the right to receive adequate, timely and accurate information in a form that they understand.

68. Pursuant to article 14 of Act. No. 20,584, all patients have the right to give or refuse their consent to undergo a specific procedure or treatment, with the exception of terminally ill patients, whose right to refuse treatment may not under any circumstances extend to decisions that have the effect of artificially accelerating their death.

69. However, article 15 of the Act specifies that consent is not required if there is a risk to public health or a risk of death or serious physical consequences, or if the patient does not have the capacity to give consent and it is not possible to obtain consent from the patient's legal representative, because such representative either does not exist or cannot be contacted. In these cases, appropriate measures are taken to guarantee the protection of life.

70. Persons with mental health-related disabilities who have been assessed as lacking the capacity to give informed consent or who, because of their mental health condition, are liable to endanger their own life or the life of another may be hospitalized in general or psychiatric hospitals without their consent, subject to the authorization of the health authority and under the supervision of the relevant regional committee for the protection of the rights of persons suffering from mental illness.

71. The number of persons in institutions has fallen by approximately 75 per cent, thanks to an active deinstitutionalization policy. However, there are still around 400 people institutionalized in long-stay psychiatric hospitals whom it has not been possible to transfer to residential homes, shelters or other alternatives to hospital care and who lack the family support necessary to permit their discharge. These are people who have been institutionalized for decades and present high degrees of dependence and disability (older adults or adults with a serious mental illness and/or intellectual disability).

72. In addition, SENADIS is currently implementing a programme designed to facilitate the transition to independent living. This programme, which is detailed in the reply provided to the issues raised in paragraph 22, should also help to reduce institutionalization.

[44] Act No. 19696 of 12 October 2012. See http://www.leychile.cl/Navegar?idNorma=176595.
[45] See http://www.leychile.cl/Navegar?idNorma=1039348.

Article 16 — Freedom from exploitation, violence and abuse

Reply to the issues raised in paragraph 19 of the list of issues

73. Act No. 20,066 [46] (2005) on the prevention, punishment and elimination of domestic violence expressly recognizes persons with disabilities, children and adolescents and older persons as vulnerable groups (art. 5) and provides that, when assessing the risk of domestic violence and abuse to which a person is exposed, the courts must give special consideration to those cases in which the victims are persons with disabilities (art. 7). In addition, the 2014-2018 National Plan of Action on Violence against Women includes disability as a vulnerability factor.

74. The new national policy on childhood and adolescence envisages the establishment of an integrated system for the protection of their rights which offers stronger protection for children and adolescents with disabilities and, under a specialized protection subsystem, measures of redress and restitution for such children and adolescents whose rights have been violated.

75. The bill to establish a system of guarantees for the rights of children (2015), mentioned above, contains provisions designed to ensure that children and adolescents with disabilities are able to exercise their rights. In particular, the bill includes disability as a suspect classification for discrimination and imposes on State bodies an obligation to identify groups of children for whom specific or enhanced measures may need to be adopted in order to reduce or eliminate the discrimination that they face and help give them an appropriate physical and social living environment.

Reply to the issues raised in paragraph 20 of the list of issues

76. The National Service for Women has begun incorporating universal accessibility principles in the renovation of buildings to be used as shelters and support and rehabilitation centres. At present, six shelters and two women's centres, all opened in 2014 or 2015, have been renovated in accordance with these principles.

77. Indicators that include women with disabilities among their variables are due to be included in the National Plan of Action on Violence against Women (mentioned above) in the course of 2016.

Article 17 — Protecting the integrity of the person

Reply to the issues raised in paragraph 21 of the list of issues

78. Act No. 20,584 provides that all persons have the right to give or refuse their consent to undergo any health procedure or treatment (art. 14). If a person is not capable of giving his or her consent, indications for invasive and irreversible treatments such as sterilization for contraceptive purposes, and the implementation of such treatments, are always subject to approval by the ethics committee of the health-care institution in question (art. 24).

79. Furthermore, persons with intellectual disabilities may be treated without their consent when the following conditions are met: (a) a psychiatrist has attested that they are suffering from a severe mental illness or disorder, their condition is creating a real and imminent risk of harm to themselves or another person, and delaying or abstaining from treatment would cause their condition to deteriorate; (b) the treatment forms part of an individually prescribed treatment plan, meets the person's health-care needs, is

[46] Domestic Violence Act. See http //www.leychile.cl/Navegar?idNorma=242648.

recommended by a psychiatrist and is the least restrictive therapy option of those available; (c) the opinion of the patient is taken into consideration wherever possible; (d) the treatment plan is reviewed regularly and is adjusted whenever deemed necessary; and (e) the treatment is recorded in the person's medical records (art. 27).

80. Given the obvious discordance between the provisions of the Convention and the provisions of Act No. 20,584, the Ministry of Health is revising the 2005 regulations on surgical sterilization so as to authorize the surgical sterilization of persons with mental disabilities who are unable to give their consent only in exceptional circumstances and to give ethics committees and the National Commission for the Protection of the Rights of Persons with Mental Illness a stronger role in such matters.[47]

Article 19 — Living independently and being included in the community

Reply to the issues raised in paragraph 22 of the list of issues

81. The Government is preparing a cross-sectoral proposal (involving the Ministry of Health, SENADIS, the Ministry of Housing and Town Planning, the Ministry of Social Development and the National Service for Older Persons) to provide tailored support for persons with mental disabilities through a coordinated and streamlined package that fosters their integration within society and their community, improves their quality of life and encourages independent living, while aiming to reduce institutionalized care and replace it with a socially inclusive alternative.

82. Four strategies in particular have been proposed: support for independent living; collective housing for persons with mild to moderate mental health-related disabilities who have a very limited or non-existent support network; collective housing for persons with severe mental health-related disabilities and a very limited or non-existent support network; and homes for persons who are moderately dependent, whose behaviour makes communal living difficult and who have more extensive long-term mental health-care needs, and for persons who are severely dependent.

83. The SENADIS programme to facilitate the transition to independent living was established to support the first strategy and is the principal component of the Support and Care Subsystem.[48] It is designed to help improve the quality of life, social integration and local community participation of persons with disabilities who are in a dependent and vulnerable situation and are between 18 and 59 years of age. The goal is to enable persons with disabilities to make the transition to independent living by providing services of various kinds, particularly support services and personal assistance.

Article 21 — Freedom of expression and opinion, and access to information

Reply to the issues raised in paragraph 23 of the list of issues

84. There is no official accreditation system for sign language interpreters in Chile. Training in Chilean sign language, including both informal instruction and user

[47] See footnote 4 above.

[48] The Support and Care Subsystem will be one of the pillars of the Social Protection System and will serve as a vehicle for the delivery of social services that ensure systematic, lifelong support for dependent persons with disabilities.

training, is provided by the associations of and for deaf persons themselves. The associations are also responsible for the accreditation of interpreters.

85. With the assistance of a group of experts in Chilean sign language interpretation and training, SENADIS is working to raise the profile of the language and promote a system of official certification through an authorized higher education institute and through the national skills certification system (Chile Valora)

86. The following training materials have been developed:

- Bilingual Chilean and Spanish sign language dictionary, produced by the Metropolitan University of Educational Sciences (UMCE), in conjunction with SENADIS;[49]
- Chilean sign language dictionary volumes 1 and 2, produced by the Ministry of Education;[50]
- Online dictionary produced by the Austral University of Chile;[51]
- "Diccisenas" online dictionary produced by the Centre for the Development of Inclusive Technologies (CEDETI) of the Catholic University of Chile.[52]

87. In addition, the Ministry of Education has distributed accessible teaching materials to students, including school textbooks in Braille and large print, for 1,005 visually impaired primary and secondary school students; mathematics audiobooks and textbooks in sign language; and Braille worksheets.

Reply to the issues raised in paragraph 24 of the list of issues

88. The Equal Opportunities and Social Inclusion of Persons with Disabilities Act guarantees access to information transmitted in television broadcasts for persons with disabilities (art. 25); recognizes sign language as the natural means of communication of the deaf community (art. 26); requires public libraries to equip themselves with accessible materials, infrastructures and technologies (art. 27); establishes a requirement that study materials and teaching methods used in mainstream schools and higher educational establishments be duly adapted (arts. 36 and 39); and provides tariff exemptions for the purchase of special equipment that facilitates access to information for persons with disabilities (art. 49 (f) and (h)).

89. Act No. 20,285 (2008) on access to public information[53] and Act No. 20,500 (2011) on associations and civic participation in the management of public affairs[54] also guarantee access to information. This requirement is enshrined in the civic participation regulations of each Service, in the guidelines issued by the Community Organizations Department of the Office of the Secretary-General of Government for the implementation of the mechanisms envisaged in the aforementioned Act and in Presidential Instruction No. 007 (2014).[55]

90. General Instruction No. 10 issued by the Council for Transparency in Administrative Procedures for Access to Information (2011)[56] stipulates that forms must be available in an understandable and easy-to-use format and that the necessary

[49] See http://diccionariodesenas.umce.cl/#!/1/a.
[50] See http://www.educacionespecial.mineduc.cl/usuarios/edu.especial/File/2012/DiccionarioSenasIZ.pdf and http://www.educacionespecial.mineduc.cl/usuarios/edu.especial/File/2012/DiccionarioSeNasAH.pdf.
[51] See http://senas.spm.uach.cl/sites/baner/front.aspx.
[52] See http://www.cedeti.cl/software-educativo/diccisenas/.
[53] See http://www.leychile.cl/Navegar?idNorma=276363.
[54] See http://www.leychile.cl/Navegar?idNorma=1023143.
[55] See http://www.dipres.gob.cl/594/articles-87929_instructivo.pdf.
[56] See http://www.gobiernotransparente.cl/asistente/oficios/instruccion_general_10.pdf.

accommodations must be made for requests by persons with disabilities for access to information.[57]

91. In application of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act, Ministry of Planning Supreme Decree No. 32 (2012) regulates the use of audiovisual communication mechanisms to enable persons with hearing impairments to have access to television broadcasts and places public and private sector television channels, in at least half the country's regions, under an obligation to use appropriate mechanisms, such as closed-captioning or sign language, in programmes produced, recorded, edited and post-produced either entirely by the channel or by third parties contracted for this purpose.[58] Television companies are also under an obligation to use sign language in news broadcasts transmitted during peak hours, using the rota system described in the response to paragraph 14 of the list of issues.

92. Act No. 18,838[59] vests the National Television Council with the authority to issue regulations for television channels on the transmission of public service or public interest broadcasts.[60] On 3 September 2014, the Council published regulations confirming that sign language and subtitling should be used for such broadcasts.

93. The National Television Council has prepared draft technical regulations for the appropriate use of closed-captioning and sign language by television channels. The draft is currently being discussed with organizations of persons with hearing impairments.

94. In addition, the Equal Opportunities and Social Inclusion of Persons with Disabilities Act provides that all State-funded public service campaigns, party political broadcasts, presidential debates and nationwide simultaneous television or audiovisual chain broadcasts should be transmitted with closed-captioning and sign language (art. 25, para. 2).

95. Lastly, the State Modernization Unit of the Office of the Minister and Secretary-General of the Presidency has produced a digital guide in the form of an accessible website containing public information of various types.[61]

Article 23 — Respect for home and the family

Reply to the issues raised in paragraph 25 of the list of issues

96. As established in article 1[62] and article 19.2[63] of the Constitution and in article 2 of Act No. 19,947 (the Civil Marriage Act),[64,65] no segment of the population is prohibited from entering into marriage, as defined in article 102 of the Civil Code.[66]

[57] On the principle of universal accessibility for persons with disabilities and the administrative procedure for accessing information.

[58] See http://www.leychile.cl/Navegar?idNorma=1037014.

[59] Adopted on 30 September 1989, it created the National Television Council. See http://www.leychile.cl/Navegar?idNorma=30214.

[60] There have been three broadcast campaigns to date, on the following topics: driving under the influence of alcohol; organ donation; and the need for doctors for the State health service.

[61] See http://www.guiadigital.gob.cl/accesibilidad.

[62] "The family is the fundamental nucleus of society."

[63] Enshrining the concept of "equality before the law".

[64] "The freedom to enter into marriage is a fundamental right of all individuals, provided that they are of marriageable age."

[65] See http://www.leychile.cl/Navegar?idNorma=225128.

[66] "Marriage is a solemn contract through which a man and a woman join together indissolubly, for their entire lives, to live together, procreate and help one another."

97. However, article 4 of the Civil Marriage Act states that persons with disabilities who have been disqualified by reason of insanity are not permitted to marry, since they are considered to have an "absolute incapacity" and their actions are therefore without legal effect, in accordance with articles 1445 and 1447 of the Civil Code.

98. Article 5 of the Civil Marriage Act also excludes the possibility of marriage for "persons deprived of the use of their reason", "persons who, because of a reliably diagnosed psychological disorder or abnormality, are absolutely incapable of engaging in the shared life that marriage entails", "persons who have insufficient judgement or discernment to understand and commit themselves to the rights and duties inherent to marriage" and "persons who are unable to express their wishes clearly by any means, whether orally, in writing or using sign language".

99. In application of this article, persons with mental, intellectual or psychological disabilities who have not yet been disqualified but meet one or more of the criteria specified in the above paragraph would accordingly not be permitted to enter into marriage. The decision as to whether the conditions essential for the existence of a valid marriage are met is the responsibility of the registrar, as established in articles 9, 10 and 14 of the Civil Marriage Act and article 29 of Decree No. 673 adopting regulatory guidelines for civil marriage and for the register of mediators.[67]

100. The recently promulgated Act No. 20,830, establishing the 2015 civil partnership agreement,[68] states that such agreements may be entered into by two persons who share a home in order to formalize the legal aspects of their life together in a stable, long-term partnership (art. 1). Under this law, there are no restrictions that might prevent persons with disabilities from entering into a civil partnership agreement, except in the case of persons who are disqualified because they are not able to manage their property.

Article 24 — Education

Reply to the issues raised in paragraph 26 of the list of issues

101. Guaranteeing free primary and secondary education, eliminating segregation due to socioeconomic factors and ensuring equitable access to education are the main objectives of the recently promulgated and published Act No. 20,845 (2015).[69] These guiding principles will ensure that education is delivered within a framework of social rights in which human dignity is protected, eliminating arbitrary discrimination in educational establishments and, as a result, reinforcing comprehensive education and moving towards more inclusive schools.

102. The aim of the Act is to transform the Chilean education system into a system of inclusive education from the moment children start school, imposing no requirements for their admission or continuing education and irrespective of their personal, social and cultural background. The Act also includes a definition of inclusive education and establishes that education is a social right.

103. At present, State education for students with disabilities is provided in one of the following types of institution, depending on the family's choice:

- Mainstream inclusive educational institutions, where specialized support is provided under a school integration programme in preschool, primary and secondary institutions and in institutions for young people and adults;

[67] See http://www.leychile.cl/Navegar?idNorma=232033.
[68] See http://www.leychile.cl/Navegar?idNorma=1075210.
[69] See http://www.leychile.cl/Navegar?idNorma=1078172.

- Special schools, which employ dedicated support workers and cater for young people from birth to 26 years of age;
- Hospital schools and classrooms.

104. School integration programmes are voluntary projects implemented in mainstream State-funded educational institutions to provide additional support for students with special educational needs, whether permanent or temporary. The programmes facilitate classroom attendance, participation and the achievement of learning goals and foster the educational development of students who may require support, whether for a specific period or throughout their time in school, depending on how their special educational needs evolve and whether the conditions of their schooling improved. The programmes are able to cater for blind students, deaf students, students with intellectual disabilities, autism, aphasia and multiple disabilities, and students with attention deficit disorder, specific learning disorders and specific language disorders, among others.

105. Ministry of Education Decree No. 170 (2010)[70] sets the criteria that educational institutions wishing to run school integration programmes are required to satisfy. If the programme is approved by the Ministry of Education, the State awards the school's sponsoring organization a special education subsidy for each student included in the programme worth approximately three times the standard subsidy.

106. In the second half of 2015, 104,811 students with disabilities were registered. Of this total, 45,818 students were in special schools and 59,469 were in establishments with a school integration programme (see annex V).

Article 25 — Health

Reply to the issues raised in paragraph 27 of the list of issues

107. The national birth control standards (Ministry of Health, 2008) are designed to promote responsible parenthood and provide guidelines for methods of contraception and the provision of sexual and reproductive health services that incorporate a gender perspective in order to redress inequalities between men and women in terms of their ability to control and make decisions concerning their sexual and reproductive health.

108. Disability is not a cross-cutting component of the standards and is mentioned only in the section on voluntary surgical sterilization, in which it is stated that advice concerning contraception methods of this kind should "accord special attention to the situation of persons with mental health problems in order to ensure that their rights are respected and that the regulations in force are not circumvented".

109. In line with the foregoing, Ministry of Health Exempt Resolution No. 2326 (2000), establishing guidelines for the health-care services on male and female sterilization, provides that sterilization procedures performed on persons of reproductive age who suffer from a disabling condition that has diminished their powers of judgement, must be carried out in accordance with articles 20 et seq. of Ministry of Health Decree No. 570 (2000).[71] This provision primarily concerns the requirement that patients give their consent for proposed treatments and interventions and, in particular, that express consent be given for any sterilization procedure considered irreversible. If the patient is not able to give consent, consent must be given by the person acting as their legal representative or proxy.

[70] See http://www.leychile.cl/Navegar?idNorma=1012570.
[71] See http://www.leychile.cl/Navegar?idNorma=173059.

110. Act No. 20,584[72] upholds the principle that patients must give their informed consent before undergoing medical procedures and treatment, but allows for the possibility of this requirement being waived in situations where the person undergoing the procedure or treatment does not have the capacity to give consent and it is not possible to obtain the consent of his or her legal representative, proxy or carer, because such a person either does not exist or cannot be contacted. In the case of sterilizations for contraceptive purposes, approval by the ethics committee of the health-care institution in question is always required (art. 8).

111. The Government has committed itself to promoting access to sexual and reproductive health services. To this end, the Ministry of Health is working to transform the Women's Health Programme[73] into a sexual and reproductive health programme that recognizes different expressions of sexuality and takes the specific needs of persons with disabilities and other vulnerable groups into account.

112. The rights of persons with disabilities are a cross-cutting component of the national birth control standards, which are currently in the final stages of being updated and include a section focused on contraception and persons with disabilities.

Reply to the issues raised in paragraph 28 of the list of issues

113. In October 2015, the Ministry of Health announced that it had resolved to prepare a draft law on mental health and that it would undertake an extensive round of participatory discussions involving organizations of persons with disabilities, among other stakeholders, for this purpose.

114. The Ministry of Health working group that is studying the draft proposed the following issues for discussion in the formulation of the new law:

- The need to harmonize the corpus of national legislation on mental disability with prevailing human rights standards, to promote respect for the rights of persons with mental disabilities, including their right to exercise their legal capacity, and to facilitate the exercise of these rights by creating tailored support mechanisms;
- The need to promote mental health through cross-sectoral advocacy and preventive activities;
- The need to guarantee a community support network for persons with mental and psychiatric health problems that is integrated within the general health services network at all levels and in all regions and provides support through all stages of life;
- The need to safeguard the right to social inclusion of persons with mental illness by guaranteeing them access to general health-care services, community-based support and rehabilitation and cross-sectoral programmes providing access to housing, education, employment and other activities that are an inherent part of life in the community and the exercise of citizenship;
- The need to safeguard the rights of persons whose well-being, liberty and right to self-determination may be compromised in health-care interventions;
- The need to protect the rights of persons who come into conflict with the law, and those of persons convicted in criminal proceedings who develop a mental illness;

[72] See above.

[73] In 2015, the Ministry drew up a proposal setting out the framework for a draft document to be submitted for cross-sectoral consultation with civil society and the authorities. The final document on the new programme should be ready by the end of 2016.

- The need to establish mechanisms for monitoring and reviewing compliance with the law and an independent body responsible for protecting the rights of persons with mental illness;
- The need to guarantee funding by means of a progressive budget that covers gaps in primary, secondary and tertiary prevention of mental illness, to eliminate the discrimination inherent in the cover provided under public and private sector insurance schemes and to ensure that mental illness is treated in the same way as other illnesses.

Article 27 — Work and employment

Reply to the issues raised in paragraph 29 of the list of issues

115. The judicial procedure provided for in Act No. 20,609 on anti-discrimination measures,[74] the *amparo* procedure for the protection of fundamental rights set out in the Labour Code[75] (arts. 485 et seq.) and the special procedure for combating acts of discrimination on the grounds of disability set out in the Equal Opportunities and Social Inclusion of Persons with Disabilities Act (part VI, arts. 57 et seq.), which were described in the reply to the issues raised in paragraph 7, may also be used to protect workers who suffer discrimination on the grounds of disability.

116. In addition, the Government is working on a bill on labour market inclusion designed to guarantee real equality of opportunities and the full social inclusion of persons with disabilities.

117. The bill to amend the Labour Code, which includes disability as a suspect classification for discrimination (Bulletin No. 9835-13), is going through its second reading in the Senate.

Reply to the issues raised in paragraph 30 of the list of issues

118. No disaggregated information is currently available that might be used to ascertain the number of judicial proceedings brought under Act No. 20,609 or the number of *amparo* proceedings brought under the Labour Code, as mentioned above, that relate to discrimination in the workplace on grounds of disability. General information about both forms of legal action can, however, be provided.

119. The number of proceedings brought in civil courts under Act No. 20,609 has risen steadily since the Act's entry into force in July 2012. Only 11 proceedings were brought in 2012, but in 2015, at the time of writing, 69 proceedings had already been brought (see annex VI).

120. Between the start of 2010 and the time of writing, 2,559 *amparo* proceedings for the protection of labour rights have been brought in labour courts (see annex VI).

Article 28 — Adequate standard of living and social protection

Reply to the issues raised in paragraph 31 of the list of issues

121. The "Chile Solidario" (ChiSol) Programme established under Act No. 19,949[76] was extended to the final cohort of families in 2012, the year in which the Security

[74] See footnote 33 above.

[75] Adopted on 24 July 2012. See http://www.leychile.cl/Navegar?idNorma=207436.

[76] Adopted on 5 June 2004, it established a system of social protection for families in situations of extreme poverty known as the "Chile Solidario" Programme.

and Opportunities Subsystem was created in implementation of Act No. 20,595.[77] The most vulnerable segments of the population and those living in poverty or extreme poverty that were already receiving support under the ChiSol Programme are the current target beneficiaries of the Security and Opportunities Subsystem.

122. The ChiSol Programme encompasses various initiatives supporting the development of persons with disabilities, who are one of the population groups targeted by the Security and Opportunities Subsystem. These include:

- The "Vínculos" (Links) Programme, which involves specialized intervention strategies focusing on older adults.[78] Although disability is not its direct focus, this programme provides for cases in which older adults find themselves in a situation of disability from the occupational point of view;
- The "Vive tu Huerto" (Cultivate your garden) Pilot Programme, which encourages the planting of vegetable gardens in mainstream schools. In 2015, the programme was extended to include special schools;
- The ChiSol Technical Aids Programme, under which technical aids and support services are provided to persons covered by the ChiSol and Security and Opportunities Subsystems. In 2015, the programme provided support for the inclusive local development strategy overseen by SENADIS, the aim of which is to develop stronger community-level procedures and practices and thus to ensure the construction of communities that strive to guarantee equality of outcome, autonomy and independent living for all their members, without arbitrary discrimination and respecting the principle of universal accessibility;
- Technical Aids Programme, since 1994. This is the longest-running component of the Subsystem and the one with the most extensive coverage. Its purpose is to finance the acquisition of technical aids. The programme is managed by SENADIS and prospective beneficiaries make their applications online. To be eligible, applicants must belong to the ChiSol — Security and Opportunities Subsystems.

123. In the specific case of children under 4 years of age, the principal strategy for addressing disability is delivered through the "Chile Crece Contigo" (Chile grows with you) Integrated Child Protection Subsystem. The disability variable is a cross-cutting component of this subsystem.

Article 29 — Participation in political and public life

Reply to the issues raised in paragraph 32 of the list of issues

124. Act No. 20,183 (2007)[79] recognizes the right of persons with disabilities to receive assistance when voting and establishes procedures for assisted voting. The Act guarantees the right to vote and establishes the powers necessary to enable persons with disabilities to exercise their vote independently.

125. Pursuant to the Act, persons with disabilities may be accompanied to the desk by another adult and have the right to be assisted in casting their vote. Should there be

[77] Adopted on 17 May 2012, it created the ethical family income scheme, which establishes allowances and conditional cash transfers for families living in extreme poverty, and an employment allowance for women.

[78] From 2015 onwards, the programme will offer socio-occupational support based on strategies that differ according to the person's level of dependency and deploy non-pharmaceutical, therapeutic approaches designed to maintain autonomy and delay functional dependency.

[79] See http://www.leychile.cl/Navegar?idNorma=261508&tipoVersion=0.

any doubt as to the nature of the voter's disability, the presiding officer consults with the other polling officers before taking a final decision

126. If they wish to be assisted, persons with disabilities must inform the presiding officer orally, in sign language or in writing that a trusted adult, who may be of either sex, will enter the voting booth with them. Neither the presiding officer nor any other person may impede or obstruct the exercise of their right to assistance. The secretary of the polling station must keep a record of assisted votes cast and the names of both the voter and the assistant.

127. When persons with disabilities choose not to exercise their right to be assisted with voting, the presiding officer of the polling station is required, at their request, to help them to fold and seal their ballot paper(s), which task must be performed outside the voting booth. The fact that this assistance was provided must also be placed on record. The presiding officer of the polling station must in all cases safeguard the confidentiality of the vote of the person receiving assistance.

128. Both the persons with disabilities and those who accompany them to provide assistance must be given expedited and appropriate access to the polling station. No constraints may be imposed on access for those attending polling stations as assistants to persons with disabilities, not even on the pretext of gender segregation.[80]

129. This issue will be examined by the technical committee on legal capacity mentioned in earlier responses, with a view to eliminating the restrictions currently imposed on the voting rights of persons with intellectual and mental disabilities who have been disqualified.

C. Special obligations

Article 31 — Statistics and data collection

Reply to the issues raised in paragraph 33 of the list of issues

130. Giving effect to its plans to include disability as a ground for discrimination, the Government, through the Ministry of Social Development, incorporated relevant questions in two statistical surveys carried out in 2015:

- The questionnaire for the second national disability survey (ENDISC II) included three specific questions on discrimination, designed to achieve the following objectives: (a) ascertain the frequency of discrimination; (b) identify the main grounds or sources of discrimination, including the health condition or disability of the person concerned; and (c) identify places or situations in which persons have found themselves discriminated against;[81]
- The 2015 National Social and Economic Survey included a question about situations in which discrimination occurs,[82] having regard to the disability of the person concerned. The results will be available in the first quarter of 2016.

131. Both surveys were aligned with existing legislation, particularly the concept of arbitrary discrimination defined in Act No. 20,609.

[80] In the run-up to the most recent presidential elections in 2013, SENADIS ran a campaign to promote inclusive voting, the aim being to explain the different stages of the assisted voting process in detail and resolve any doubts about the rights of persons with disabilities in the voting process.

[81] These questions canvass the subjective views of respondents and were asked of a random nationwide sample of persons of at least 18 years of age. The results of the survey will be available in the first quarter of 2016.

[82] Where they have affected a member of the household in the past year. The question also specifies the ground(s) for discrimination in a list of 17 situations.

132. The Government has yet to fully achieve the goal of incorporating "social inclusion of persons with disabilities" and "disability as a ground for discrimination" as variables in the registries of all public service departments, especially those which provide services to vulnerable persons and groups. However, numerous measures have been adopted to this end in various State institutions, as has been detailed in previous replies.

Article 33 — National implementation and monitoring

Reply to the issues raised in paragraph 34 of the list of issues

133. At present, SENADIS is the government body responsible for the implementation of the Convention and the Equal Opportunities and Social Inclusion of Persons with Disabilities Act (art. 62 (j)).

134. However, the Government is working on the bill to establish the Office of the Under-Secretary for Disability, as detailed in the reply to the issues raised in paragraph 1. To gain input for the drafting of the bill, 15 participatory dialogues were organized throughout the country in 2014. Civil society, which was broadly represented at these events, indicated that it was in favour of establishing a new body with responsibility for coordinating national disability policy throughout the country, among other functions (see annex VII).

135. In addition, as provided in articles 2 and 3 of Act No. 20,405 (2009),[83] the National Human Rights Institute, which is an autonomous public body with legal personality and its own resources, is responsible for promoting and protecting the rights enshrined in human rights treaties ratified by Chile, including those related to persons with disabilities.[84]

[83] See http://www.leychile.cl/Navegar?idNorma=1008867.

[84] At the twenty-sixth session of the General Meeting of the International Coordinating Committee of National Institutions for the Promotion and Protection of Humans Rights, the National Human Rights Institute of Chile was granted the highest possible accreditation status (A status).